

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA
SOUTHERN DIVISION

NO. 7:11-CR-153-BO-1

UNITED STATES OF AMERICA

v.

JERRELL YEOMAN

NOTICE OF SUPPLEMENTAL
AUTHORITY

SUPPLEMENTAL AUTHORITY

Petitioner, through undersigned counsel, supplements his pending petition under 28 U.S.C. § 2255 with the following precedent, which reinforces that his conviction[s] under 18 U.S.C. § 924(c) are now void.

In *Sessions v. Dimaya*, __ U.S. __, 138 S. Ct. 1204 (2018), the Supreme Court held that the residual clause defining a “crime of violence” under 18 U.S.C. § 16(b) is void for vagueness in violation of due process. Because the residual clause defining “crime of violence” under 18 U.S.C. § 924(c)(3)(B) is identical to § 16(b) and operates in precisely the same way (with the same categorical approach and ordinary case inquiry) that applies to § 16(b), § 924(c)(3)(B) is also unconstitutionally void. Indeed, relying on *Dimaya*, four circuits have so ruled. *See United States v. Simms*, 914 F.3d 229 (4th Cir. 2019); *United States v. Davis*, 903 F.3d 483, 495-86 (5th Cir. 2018) (per curiam), *cert. granted*, __ U.S. __, __ S. Ct. __, 2019 WL 98544 (U.S. Jan. 4, 2019) (No. 18-431); *United States v. Eshetu*, 898 F.3d 36, 37 (D.C. Cir. 2018) (per curiam); *United States v. Salas*, 889 F.3d 681, 684, 684-86 (10th Cir. 2018); *see also United States v. Cardena*, 842 F.3d 959, 996 (7th Cir. 2016) (holding § 924(c)(3)(B) void relying on *Johnson*) This Court must do the same.

Respectfully submitted this 11th day of April, 2019.

THOMAS P. McNAMARA
Federal Public Defender

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing was served upon:

AMY N. OKEREKE
Assistant United States Attorney
Suite 800, Federal Building
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Raleigh, NC 27601-1461

by electronically filing the foregoing with the Clerk of Court on April 11, 2019, using the CM/ECF system which will send notification of such filing to the above.

This the 11th day of April, 2019.

/s/ Sherri Royall Alspaugh
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